

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO**

**UNITED STATES OF AMERICA**

**Plaintiff,**

**v.**

**COMMONWEALTH OF PUERTO RICO,  
et. al.**

**Defendants.**

**CIVIL NO. 12-2039 (GAG)(PG)**

**MOTION IN COMPLIANCE WITH ORDER AT DOCKET NO. 629**

**TO THE HONORABLE COURT:**

**COME NOW** the Commonwealth of Puerto Rico and the Puerto Rico Police Bureau, through the undersigned counsel, and respectfully allege and pray as follows:

**INTRODUCTION:**

On April 10 2017, the Governor signed Law 20 ("Law 20-2017") to reorganize and consolidate seven (7) agencies of the government in charge of public safety into one Department. Specifically, Law 20-2017 integrated the Puerto Rico Police Department, the Fire Department, the Emergency Management Agency, the Medical Emergencies Management Agency, the Bureau of Special Investigations, and the Institute of Forensic Sciences into the Department of Public Safety "(DPS)". On October 10, 2017, Law 20-2017 became fully effective and it repealed Public Law 53-1996, as amended (Puerto Rico Police Act)<sup>1</sup>.

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<sup>1</sup> Article 2.22 of Law 20 states that in case of doubt the interpretation of this Law, it should be opted for the interpretation that advances the purposes of the statute and that is consistent with the Agreement for the Reform of the Police.

On October 23, 2017, this Honorable Court order the Commonwealth of Puerto Rico to specifically address and discuss several issues detailed in the Order. (See Docket No. 629)

Accordingly, in compliance with the Court's Order at Docket 629, the Commonwealth addresses the following issues raised by the Court.

#### DISCUSSION OF THE ISSUES RAISED BY THE COURT

1. *Article 9.02 of Law 20-2017- Transitory dispositions. The Executive Committee report to the Governor, which includes the evaluation carried out in the agencies to be formed by the DPS and the recommendations of the Committee as to the transfers of property, resources and personnel as provided in this Law (in regards to the PRPD only)*

On June 27, 2017, pursuant to Law 20-2017, Article 1.13, the Executive Committee reported to the Governor the results of the evaluation and analysis made, certifying that the DPS was prepared for the consolidation of property, resources, and personnel of the agencies involved in Law 20-2017. (See Exhibit 1)

The Executive Committee members are Héctor M. Pesquera, Secretary of Public Safety; Ricardo Martínez Rodríguez, Auxiliary Secretary of the Department of Public Safety; Wanda Vázquez Garced ,Secretary of the Department of Justice of Puerto Rico; Jose Marrero Rosado, Director of the Budget and Management Office; Michelle M. Hernández de Fraley, Commissioner of the Police Bureau; Alfonso Orona Amivilla, Chief Legal Advisor; Héctor G. González Arroyo, security advisor to the Governor; Rafael Cabrera Crespo, Director of the Continue Improvement and innovation Office; Zulma Canales López, Auxiliary Superintendent of General Services of the Puerto Rico Police; Doctor María Conte Miller, member of the Institute for Forensic Sciences; and Luis G. Romero Font, founder of Basta Ya, Inc.

The objectives of the DPS are described in Law 20-2017 and require a better use of human and fiscal resources by consolidating several agencies into one Department of Public Safety. Likewise, the creation of the DPS gives the Secretary of Public Safety the ability to coordinate efforts between all of the consolidated agencies to protect, investigate and/or prevent criminal acts or emergency situations in Puerto Rico.

Pursuant to Law 20-2017, the DPS will implement the interaction of information of all integrated agencies. The executive committee evaluated all of the reports that were prepared by different work groups in each agency in order to decide if all requirements established by Law 20-2017 are being met for this first certification and concluded that the DSP is prepared to undertake the responsibilities and statutory requirement bestowed upon it by Law 20-2017. (Exhibit 1 at 5 (page 2 of the Report)). Although mindful of the amount of work ahead in order to accomplish all of the objectives in Law 20-2017, the Executive Committee affirmed that the required effort is possible thanks to the commitment and determination of the work group in charge of the success of the consolidation. *Id.* For the next certification, the Committee will specify the capacity of the DPS to enter into the functions mandated in Law 20-2017.

2. *Article 9.02- The certification presented to the Governor, according to the evaluation made by the Executive Committee that the DPS was ready to assume the functions delegated to it by Law 20-217 as of 10 October 2017.*

Due to the passing of the hurricane María, this certification is yet to be issued and is pending before the Executive Committee. As such, the Executive Committee will reconvene and will be ready to issue a second certification during the next months.

3. *Article 9.02- The certification conducted by the Office of Management and Budget certifying the estimated savings through the consolidation within the Department of Public Safety and the estimated saving dollar amount.*

See Exhibit 2.

4. *Article 9.02- The Secretary of DPS certification to the Governor as the fulfillment of the above requirements.*

Refer to answer to Question #2.

5. *A statement discussing how the process of consolidating the Bureau of Police will continue to be subject to compliance with the provisions of the agreement between the United States Department of Justice and Government of Puerto Rico.*

The consolidation process of the Puerto Rico Police Bureau ("PRPB") will be subject to compliance with the provisions of the Agreement for the Sustainable Reform of the Puerto Rico Police Department (the "Agreement") entered into by and between the Department of Justice of the United States ("USDOJ"), the Government of Puerto Rico and the Commissioner of the Police.

Paragraph 4 of article 9.02 is clear that the process of consolidation of the PRPB is subject to compliance with the Agreement and in coordination with the federal agencies in charge of executing said Agreement.

6. *Whether the Reform Unit of the Police of Puerto Rico, created by the Agreement for the Sustainable Reform, will continue to operate as the unit responsible for the implementation of the reform process as established by the Agreement.*

The Reform Office will continue being the unit responsible for the implementation of all the efforts and requirements contemplated in the Agreement entered into between the parties.

7. *Whether the Police Academy will continue to operate in the training of new cadets and the retraining of police officers or whether a different entity will oversee the instructional process.*

There are no plans to make any changes in the Police Academy in the foreseeable future. If and when the Commonwealth initiates plans to make changes in the Police Academy, the USDOJ and TCA will be informed. As ordered in Docket No. 658, the Commonwealth will inquire with the PRPB so as to provide information known as to the Police Academy in due time

8. *How the approved Actions Plans up to date shall continue to be executed. Any information regarding a possible delay in the execution of the Action Plans and intended remedial action shall also be brought to the attention of the Court.*

Pursuant to Paragraph 239 of the Agreement, the PRPB requested from the TCA a four (4) months extension of the capacity building period based on the need to modify the timeframes set forth in the Action Plans. PRPB stated to the TCA that the request for an extension was due to unexpected challenges that had delayed the policy approval process, and that additional time was required to draft policies and regulations capturing amendments to Act 53-1996, which has been superseded by Act 20-2017. On June 1, 2017, this Honorable Court noted and approved the request of extension of time as requested by the PRPB. (See Docket No. 546).

Moreover, as discussed recently in the Joint Motion Informing the Court of Matters Related to the Aftermath of Hurricane Maria, the PRPB is currently assessing the damages that the Hurricane caused to the PRPB facilities and the impact that it will have on executing the Action Plans. On September 27, 2017, PRPB made two initial requests for extensions for policies due on September 30, 2017 and five (5) training courses due by the end of 2017. Pursuant to Paragraph 239 of the Agreement, the

TCA approved these requests the following day, on September 28, 2017. The Parties and the TCA continue to evaluate other critical areas of the Agreement and the Action Plans to determine whether any modifications are necessary, pursuant to Paragraph 239 of the Agreement. (See Docket No. 556).

Pursuant to the Court's Order at Docket No. 644, on January 31, 2018, the Parties will submit to the Court a Supplemental Joint Motion Informing Court matters related to the Aftermath of Hurricane Maria which will include an assessment on the execution of the Action Plans. (See Docket No. 644).

9. *Budget and resources. In accordance with terms of the Agreement, the Commonwealth of Puerto Rico assigned a determined amount of monies and resources to fund and manage the reform process which to this date has been accomplished by the Police of Puerto Rico. The Government of Puerto Rico must inform the Court if the Bureau of Police, formerly the Puerto Rico Police Department, will continue to manage the funds and resources assigned or if the Department of Public Safety will assume the management of the aforesaid matters exclusively for the reform process of the Bureau of Police.*

Article 1.05 (j) of Law 20-2017, states that the Secretary of Public Safety will manage and supervise the management and fiscal services, among others, of each of the Bureaus. Article 1.05 (l) also provides that the Secretary of Public Safety shall manage the budget allocated to the Bureaus for the services they offer and projections thereof.

In accordance with the aforementioned articles, and according to the transitory provisions contemplated in Article 9.02 of Law 20-2017, the remainder of the current fiscal year ("FY") 2017-2018 is to be operated with the funds originally assigned to the agencies that were consolidated. However, during the subsequent fiscal years, it will be the duty of the Secretary of Public Safety to prepare, request, manage, receive and execute the budget corresponding to the Department, including its Bureaus. (See

Article 1.05(j) and (l) of Law 20-2017). It is important to note that the Department of Public Safety will not operate through a consolidated budget until FY 2018-2019. This, however, shall not affect the resources assigned for the Reform Process, as pursuant to the Agreement and Law 20-2017, funds have to be set aside to guarantee compliance with the Reform Process.

10. *Any other matters of concern to the Government of Puerto Rico.*

As this Court correctly noted, the passage of Hurricanes Irma and María had a great impact in the steps taken by the Commonwealth as to any of the above discussed matters. (See Docket 629 at 4, lines 16-17; see also Docket 624 at 1 (“Order Regarding Aftermath of Hurricane Maria”)). The Commonwealth has taken additional and precautionary steps in order to offset or minimize any setbacks that the powerful hurricanes caused upon the capacity building period and recovery efforts are still in progress. Pursuant to the Court’s Order at Docket 644, on January 31, 2018, the Parties will submit to the Court a Supplemental Joint Motion Informing Court matters related to the Aftermath of Hurricane Maria. (See Docket No. 644).

**WHEREFORE**, it is respectfully requested from this Honorable Court to take notice of the above stated.

**I HEREBY CERTIFY** that on this same date, I electronically filed the foregoing with the Clerk of the Court using CM/ECF system which will send notification of such filing to all attorneys of record.

**RESPECTFULLY SUBMITTED.**

In San Juan, Puerto Rico, on December 8, 2017.

**WANDA VÁZQUEZ GARCED**  
Secretary of Justice

**WANDYMAR BURGOS VARGAS**  
Deputy Secretary in Charge of  
Litigation  
Department of Justice

**SUSANA PEÑAGARÍCANO BROWN**  
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